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PETITION OF

COLUMBIA GAS OF VIRGINIA, INC.

CASE NO. PUE-2002-00070

For a Declaratory Judgment

HEARING EXAMINER'S RULING

May 24, 2002

On March 12, 2002, in response to a Petition for Declaratory Judgment filed by Columbia Gas of Virginia, Inc. ("CGV"), the Virginia Industrial Gas User's Association ("VIGUA") filed an Answer, Cross-Petition for Declaratory Judgment, and Request for Hearing. By Hearing Examiner's Rulings dated April 3 and April 25, 2002, procedural schedules were established and a hearing date was set.

On May 13, 2002, VIGUA filed a Motion for Summary Judgment arguing that the issues in this case involve a legal determination based on admitted facts. On May 15, 2002, VIGUA filed a Motion to Continue All Procedural and Discovery Dates ("Motion to Continue") on the grounds that the filing of testimony and exhibits would be expensive and perhaps unnecessary if the Motion for Summary Judgment is granted. On May 16, 2002, Stand Energy Corporation, by counsel, filed a Motion in support of VIGUA's Motion to Continue. By Hearing Examiner's Ruling of May 17, 2002, VIGUA's Motion to Continue was granted and the procedural schedules established in Hearing Examiner's Rulings of April 3 and April 25, 2002, including the hearing date of July 11, 2002, were suspended.

On May 21, 2002, CGV filed a Motion to Vacate the Hearing Examiner's Ruling of May 17, 2002; Response to the Motion of VIGUA to Continue All Procedural and Discovery Dates; Motion to Dismiss Cross-Petition with Prejudice and to Compel Response to Discovery ("Motion to Vacate"). By Hearing Examiner's Ruling of May 22, 2002, oral argument on the Motion to Vacate was set for May 24, 2002. On May 23, 2002, VIGUA filed a statement of its opposition to CGV's motions of May 21, 2002.

After hearing for oral argument on all motions, **I FIND** that:

1. CGV's Motion to Vacate the Ruling of May 17, 2002, should be granted;
2. CGV's Motion to Dismiss VIGUA's Cross-Petition should be denied;
3. Discovery and Interrogatories pursuant to Rule 5 VAC 5-20-260 should be permitted in this case pursuant to a waiver as provided in Rule 5 VAC 5-20-10;
4. CGV's Motion to Compel VIGUA to respond to data requests in a timely manner should be taken under advisement. Data requests currently outstanding are to be answered on or before June 3, 2002;

5. All further data requests are to be answered on or before seven business days from their filing;

6. VIGUA's Motion for Summary Judgment should be denied;

7. A procedural schedule should be established; and

8. The hearing date of July 11, 2002, should be reinstated.

Accordingly, **IT IS DIRECTED** that:

1. The Ruling of May 17, 2002, is vacated;

2. Columbia's Motion to Dismiss Cross-Petition with Prejudice is denied;

3. Interrogatories and Discovery pursuant to Rule 5 VAC 5-20-260 are permitted pursuant to a waiver as provided for in Rule 5 VAC-5-20-10;

4. Motion to Compel Discovery is taken under advisement. Current data requests are to be answered on or before June 3, 2002;

5. VIGUA's Motion for Summary Judgment is denied;

6. The hearing date of July 11, 2002, is reinstated;

7. Testimony and exhibits of Respondents due to be filed on or before May 24, 2002, as set forth in the Ruling of April 3, 2002, are now due on or before May 31, 2002;

8. Testimony and exhibits of Staff due to be filed on or before June 10, 2002, are now due on or before June 17, 2002; and

9. Rebuttal testimony and exhibits due to be filed on or before June 21, 2002, are now due on or before June 24, 2002, (electronic filing or overnight delivery preferred).

Howard P. Anderson, Jr.
Hearing Examiner